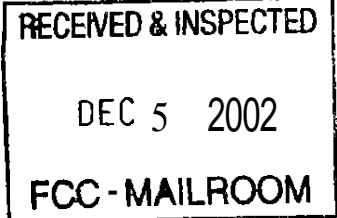


Before the
Federal Communications Commission
Washington, DC 20554



In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Sullins Academy)	File No. SLD-326680
Bristol, Virginia)	
 Federal-State Joint Board on)	 CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the		CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: November 26, 2002

Released: November 27, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. This Order dismisses the Request for Review filed by Sullins Academy (Sullins), Bristol, Virginia.¹ Sullins seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator or USAC) on June 24, 2002.² The Commission received Sullins' Request for Review on October 3, 2002.³

2. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.⁴ Documents are considered to be filed with the Commission only upon receipt.⁵ Because the

¹ Letter from Mara Barrett, Sullins Academy, to Federal Communications Commission, filed October 3, 2002 (Request for Review).

² See Request for Review; Letter from the School and Libraries Division, Universal Service Administrative Company, to Mara Barrett, Sullins Academy, dated June 24, 2002 (Administrator's Decision on Appeal Letter). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ See Request for Review

⁴ 47 C.F.R. § 54.720(b). See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 Rcd 339 (2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002); SLD web site, What's New (January 20, 2002), <http://www.sl.universalsen/ice.ore/whatsnew/012002.aso#extend3ed>.

⁵ 47 C.F.R. § 1.7.

instant Request for Review was not filed within the requisite 60-day period, it will be dismissed without further consideration.

3. To the extent that Sullins is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as **well**.⁶ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.⁷ Sullins has not shown good cause for the untimely filing of its appeal. Sullins states that it was given misleading information by more than one USAC employee regarding where Sullins should send its second letter of appeal.⁸

4. We conclude that Sullins has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁹ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD or the Commission within the established deadline if the applicant wishes its appeal to be considered on the merits. The June **24,2002** Administrator's Decision on Appeal Letter clearly states that the FCC must "RECEIVE your appeal ... **WITHIN 60 DAYS OF THE ... DATE ON [THE ADMINISTRATOR'S DECISION ON APPEAL LETTER]**"

5. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹⁰ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeals to the FCC if it wishes its appeals to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Sullins argues that it deserves relief because it was given misleading information from USAC. We decline to grant relief on the basis of incorrect advice from USAC. Commission precedent establishes that where a party has received erroneous advice, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly where relief is contrary to a rule.¹² Thus, Sullins fails to present good

⁶ See 47 C.F.R. § 54.720(b)

⁷ See 47 C.F.R. § 1.3

⁸ Request for Review at 1

⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)

¹⁰ Administrator's Decision on Appeal Letter at 2.

¹¹ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service. Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Comm. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each Funding year, it is administratively **necessary** to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

¹² *In re Mary Ann Salvatiello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4707-8, para.22 (1991) (citing *Office of Personnel Management v. Richmond*, 497 U.S. 1046(1990)).

cause as to why it could not timely file its appeal to the FCC. We therefore find no basis for waiving the appeal filing deadline.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Review filed by Sullins Academy, Bristol, Virginia, on October 3, 2002, IS DISMISSED, and the request to waive the 60-day time limit in which to file an appeal IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark Seifert". The signature is written in a cursive, flowing style.

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau